
Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Health and Human Services, Office of Elder Services (OES)

CHAPTER NUMBER AND TITLE: 10-149 C.M.R. Ch. 5 - Office of Elder Services Policy Manual, Section 68 (Respite Care for People with Alzheimer's or Related Disorders); and Section 69 (Office of Elder Services Independent Support Services, formerly Office of Elder Services Homemaker Program).

ADOPTED RULE NUMBER :

CONCISE SUMMARY: These routine technical rule amendments are adopted to address transition issues for consumers moving between State-funded or MaineCare long term care programs and to change program names to better reflect the services provided. Section 68 adds definitions, clarifies certain program requirements, such as those related to eligibility and termination of services, including the removal of suspension as a reason for termination. Section 69 reduces the maximum cap from ten hours monthly to eight hours monthly of service for one consumer and provides a limitation on services that may be provided for two individuals living in the same household; clarifies issues related to eligibility, the waiting list and compliance requirements for consumers on the self-directed option; specifies eligibility for certain adults at risk of abuse, neglect or exploitation and limits those services to 15% of Section 69 funds; and identifies the responsibilities of the Independent Support Services Agency, including the authority to conduct reassessments for Section 69 services.

EFFECTIVE DATE: February 1, 2009

AGENCY CONTACT PERSON: Elizabeth Gattine

AGENCY NAME: Office of Elder Services

ADDRESS: #11 State House Station

442 Civic Center Drive.

Augusta, Maine 04333-0011

TELEPHONE: (207) 287-9200

Toll free: 1 (800) 262-2232

Toll free TTY: 1 (888) 720-1925

PLEASE APPROVE BOTTOM PORTION OF THIS FORM AND
ASSIGN APPROPRIATE MFASIS NUMBER

APPROVED FOR PAYMENT _____ DATE: _____

Authorized Signature
Diana Scully, Director
Maine Department of Health and Human Services
Office of ElderServices

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
			#010-10A-6000			

SECTION 68: RESPITE CARE SERVICES FOR ADULTS WITH ALZHEIMER'S DISEASE OR RELATED DISORDERS

68.01 DEFINITIONS

- (A) **Authorized Agent** means an organization authorized by the Department to perform functions under a valid contract or other approved, signed agreement.
- (B) **Caregiver** means the individual providing care to the consumer.
- (C) **Consumer** means an adult with Alzheimer's Disease or a related disorder who meets eligibility under this Section.
- (D) **Covered Services** are those services for which payment can be made by the Department under this Section.
- (E) **Household members** means the consumer and spouse.
- (F) **Household members' income** includes:
 - (1) Wages from work, including payroll deductions, excluding state and Federal taxes and employer mandated or court ordered withholdings;
 - (2) Benefits from Social Security, Supplemental Security Insurance, pensions, insurance, independent retirement plans, annuities, and Aid and Attendance;
 - (3) Adjusted gross income from property and/or business, based on the consumer's most recent Federal income tax; and
 - (4) Interest and dividends.
 - (5) Not included are benefits from: the Home Energy Assistance Program, Food Stamps, General Assistance, Property Tax and Rent Refund, emergency assistance programs, or their successors.
- (G) **Liquid asset** is something of value available to the consumer that can be converted to cash in three months or less and includes:
 - (1) Bank accounts;
 - (2) Certificates of deposit;
 - (3) Money market and mutual funds;
 - (4) Life insurance policies;
 - (5) Stocks and bonds;
 - (6) Lump sum payments and inheritances and
 - (7) Funds from a home equity conversion mortgage that are in the consumer's possession whether they are cash or have been converted to another form.

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

Funds which are available to the consumer but carry a penalty for early withdrawal will be counted minus the penalty. Exempt from this category are mortuary trusts and lump sum payments received from insurance settlements or annuities or other such assets named specifically to provide income as a replacement for earned income. The income from these payments will be counted as income.

(H) Respite Care means services provided to a consumer because of the absence of, or need for relief of, the consumer's caregiver. These services include but are not limited to assistance with activities of daily living, assistance with instrumental activities of daily living, supervision and companionship services. These services may be provided in the home; in a licensed Adult Day program; or in an institutional setting, not to exceed a total of fourteen (14) days for the fiscal year. For purposes of this Section, an institution is:

- (1) A residential care facility licensed according to 22 M.R.S.A. 7801-7807; or
- (2) A nursing facility, or unit, licensed according to 22 M.R.S.A. Section 1811-1831.

68.02 Eligibility

- (A) General and Specific Requirements.** To be eligible for services a consumer must:
- (1) Be at least 18;
 - (2) Live in Maine;
 - (3) Have a physician's clinical assessment of Alzheimer's Disease or Related Disorder;
 - (4) Not be eligible for or receiving MaineCare Private Duty Nursing/Personal Care Services, MaineCare Home and Community Benefits, MaineCare Adult Day Health, or MaineCare Consumer-Directed Attendant Services programs;
 - (5) For an individual have assets of no more than \$50,000 or for couples have assets of no more than \$75,000;
 - (6) Not be residing in a hospital, residential care facility or nursing facility; and
 - (7) Consumer, caregiver or authorized representative agrees to pay the monthly calculated consumer payment. This payment may be subsequently waived or reduced if the consumer's application for a waiver or reduction is approved.
- (B)** A consumer may not begin receiving respite care services reimbursable under this Section if that consumer is also eligible for and receiving services under Section 61: Adult Day Services, Section 63: In Home and Community Support Services, or Consumer-Directed Personal Assistance Services Program (14-197 CMR Chapter 11).

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

68.03 Duration of Services

- (A) Each consumer may receive as many covered services as are required up to a maximum of \$ 3,800 per fiscal year or an amount otherwise established by the Department. The amount of service authorized is based on a determination of need by the Department or its Authorized Agent.
- (B) Services under this Section shall be suspended, reduced, denied or terminated by the Department, or the Authorized Agency, as appropriate, for any of the following reasons:
- (1) The consumer does not meet eligibility requirements.
 - (2) The caregiver or the authorized representative of the consumer declines services.
 - (3) The consumer is eligible to receive long-term care benefits under MaineCare including any MaineCare Home and Community Benefits.
 - (4) The health or safety of individuals providing services is endangered.
 - (5) The consumer, caregiver or authorized representative of the consumer has failed to make the calculated monthly co-payment on behalf of the consumer within thirty (30) days of receipt of the co-pay bill.
 - (6) The authorized representative gives fraudulent information to Department or the Authorized Agent.
 - (7) There are insufficient funds to continue to pay for services for all current consumers, which results in a change affecting some or all consumers.

Notice of intent to reduce, deny, or terminate services under this section will be done in accordance with Section 40.01 of this policy manual

(C) Transition to Other Programs.

(1) **MaineCare.** If an assessment indicates medical eligibility for MaineCare and potential financial eligibility for MaineCare, the consumer and the consumer's authorized representative will be given written notice that the consumer has up to thirty (30) days to file a MaineCare application with the Department. Respite services under this section will be discontinued if the application is not filed within 30 days or if, after filing, the application requirements are not completed by the consumer within the timeframes required by MaineCare policy. No further written notice of termination is required in order for the termination to be effective once MaineCare eligibility is established and services are in place. Eligibility for Respite Care services under this section will continue if MaineCare eligibility is denied.

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

(2) State-funded.

(a) Single Program. An individual may not continue to receive services reimbursable under this Section if he or she is also eligible for and chooses to begin receiving services under any of the following programs: Section 61: Adult Day Services; Section 63: In Home and Community Support Services; or Consumer-Directed Personal Assistance Services Program (14-197 CMR Chapter 11).

(b) Exception to Program Choice. If a wait list is established for Respite Care services under Section 68 by the Authorized Agent serving the consumer, a consumer's eligibility for Section 68 services shall be terminated if i) the consumer meets the eligibility requirements for Section 63: In Home and Community Support Services; and ii) funds and staffing are available under Section 63 to serve the consumer under Section 63: In Home and Community Support Services. Services under this Section may continue until staffing is in place under Section 63.

68.04 Covered Services

- (A) **Respite Care** services as defined in Section 68.01(H).
- (B) **Administration.** The Office of Elder Services will allocate funds among the state's Planning and Service Areas using the long-term care formula. The Office of Elder Services may recoup from the Authorized Agent and reallocate any unused funds. Authorized Agents may use up to 10% of the allocation to support administration of the services under this Section.
- (C) **Home Modifications**, including registration for Safe Return, necessary to promote independent living and carry out the plan of care, up to a lifetime cost of \$2,000 and when there is no alternative source of funding. The cost will be included in the cap for the year in which the home modification expense was incurred.
- (D) **National Family Caregiver Support Program.** To the extent that budgeted resources permit and to the extent that there is no wait list for Respite Care services, funds appropriated under Section 68 may be used to meet up to 80% of the match requirement for the National Family Caregiver Support Program, Title III- E of the Older Americans Act as amended in 2000.

68.05 Non-Covered Services

- (A) Services provided by anyone prohibited from employment under the following:
 - (1) Unlicensed assistive personnel prohibited from employment under Title 22 MRSA §1717(3), §2149-A, §7851, or §8606; or
 - (2) a certified nursing assistant who is prohibited from employment under Title 22 MRSA §1812(G).
- (B) Services for which the cost exceeds the limits described in Section 68.03

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

68.06 Policies and Procedures

- (A) **Eligibility Determination** Documentation of a physician's clinical assessment of dementia shall be provided to the Authorized Agent. Respite Care services require eligibility determination and prior authorization by the Authorized Agency. The Authorized Agent will:
- (1) Accept verbal or written referral information on each prospective new consumer.
 - (2) Inform the consumer, caregiver or authorized representative of available community resources and arrange for Respite Care that reflects identified needs not to exceed the limits defined in Section 68.03.
 - (3) Inform the authorized representative of the calculated co-payment based on the cost of services authorized.
- (B) **Waiting List**
- (1) When funds are not available to serve new consumers, the Authorized Agent will establish a waiting list. As funds become available, consumers will be assessed on a first come, first served basis.
 - (2) For consumers found ineligible for Respite Care services the Authorized Agent will inform each consumer of alternative services or resources, and offer to refer the person to those other services.
 - (3) The Authorized Agency will maintain one waiting list for the counties they are authorized to serve. If there is a waiting list the first come, first served basis may be waived by the Authorized Agent if in its judgment it is necessary to respond to the emergency needs or special circumstances of the caregiver.
- (C) **Continued Services**
- (1) An individual's specific needs for Respite Care services are reviewed at least every six months;
 - (2) If a consumer reaches the spending cap as established in Section 68.03(A) prior to the end of the fiscal year, the consumer, if otherwise eligible under this Section, may not exceed the cap limit but shall not have his or her eligibility terminated under this Section. Respite Care services will resume to the consumer at the start of the next fiscal year, subject to the applicable cap.

68.07 Professional and Other Qualified Staff

- (A) **The Authorized Agency shall:**
- (1) Employ staff qualified by training and/or experience to perform assigned tasks and meet the applicable policy requirements.
 - (2) Comply with requirements of 22 M.R.S.A. §3471 et seq. and 22 M.R.S.A. § 4011-A-4018 to report any suspicion of abuse, neglect or exploitation.
 - (3) Pursue other sources of reimbursement for services prior to the authorization of Respite Care services.

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

- (4) Operate and manage the program in accordance with all requirements established by rule or contract.
- (5) Have sufficient financial resources, other than State funds, available to cover any respite expenditures that are disallowed as part of the Office of Elder Services utilization review process.
- (6) Inform in writing any consumer with an unresolved complaint regarding their services about how to contact the Long Term Care Ombudsman.
- (7) Assure that the cost of Respite Care services provided to a consumer in a twelve month period does not exceed the applicable annual cost limit established in Section 68.03.
- (8) Implement an internal system to assure the quality and appropriateness of assessments to determine eligibility and authorize Respite Care services.

68.08 Consumer Records and Program Reports

- (A) **Content of Consumer Records.** The Authorized Agency must establish and maintain a record for each consumer that includes at least:
- (1) Both the consumer's and caregivers' name, any authorized representative, consumer's date of birth, address, mailing address if different, and telephone number;
 - (2) A diagnosis/assessment of Alzheimer's Disease or Related Disorder; signed and dated by a physician;
 - (2) Financial assessment to determine program eligibility signed and dated by the person completing it;
 - (3) A dated release of information signed by the authorized representative that conforms with applicable law, is renewed annually and that:
 - (a) Is in language the authorized representative can understand;
 - (b) Names the agency or person authorized to disclose information
 - (c) Describes the information that may be disclosed;
 - (d) Names the person or agency to whom information may be disclosed;
 - (e) Describes the purpose for which information may be disclosed; and
 - (f) Shows the date the release will expire.
 - (4) Documentation that the caregivers and consumers eligible to apply for a waiver of the consumer payment, were notified that a waiver may be available;
 - (5) Written progress notes that summarize any contacts made with or about the consumer.
- (B) **Program Reports.** The following reports must be submitted to the Office of Elder Services, in a format approved by the Office of Elder Services, by the day noted:
- (1) Monthly service and consumer reports including admissions, discharges and active client lists, due no later than twenty-five days after the end of the month;

Office of Elder Services Policy Manual

Section 68 Respite Care Services for Adults with Alzheimer's Disease or Related Disorders

- (2) Monthly expense reports, due no later than twenty-five days after the end of the month;
- (3) Quarterly report included in the Area Agency on Aging fiscal report, due no later than twenty five days after the end of the quarter.
- (4) Quarterly performance based contracting report.

68.09 Responsibilities of the Office of Elder Services

- (A) Selection of Authorized Agents
- (B) Setting the annual individual service limit.
- (C) Establishing performance standards for contracts with the Authorized Agencies including but not limited to the numbers of consumers to be served and allowable costs for administration and direct service.
- (D) Providing written notification to the Authorized Agency regarding strengths, problems, violations, deficiencies or disallowed costs in the program and requiring action plans for corrections.
 - (1) Assuring the continuation of services if the Office of Elder Services determines that an Authorized Agent's contract must be terminated.
 - (2) Administering the program directly in the absence of a suitable Authorized Agent.
 - (3) Periodically review randomly selected requests for waivers of consumer payment.
 - (4) Recouping Respite Care funds from the Authorized Agencies when the Office of Elder Services determines that funds have been used in a manner inconsistent with these rules or the Authorized Agent's contract.

68.10 Consumer Payment

- (A) **Consumer Payment.** Consumers will pay 20% of the cost of Respite Care services under this program, except when they are granted a waiver.
- (B) **Waiver of Consumer Payment.** The Authorized Agency will manage requests for waiver of consumer payments. Consumers will be informed that they may apply for and receive a waiver of all or part of the assessed payment when:
 - (1) Monthly income of household members, as defined in Sections 68.01(F) and 68.01(G) is no more than 200% of the federal poverty level; and
 - (2) Household assets are less than \$15,000.
 - (3) Calculation of the waiver of the consumer payment will be completed by the Authorized Agent following the process outlined in Section 63.12.